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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,452	09/01/2004	Richard Boudinot	026032-4729	9989

26371 7590 10/05/2005

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EXAMINER

NELSON JR, MILTON

ART UNIT PAPER NUMBER

3636

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

*He*

**Office Action Summary**

Application No.

10/506,452

Applicant(s)

BOUDINOT, RICHARD

Examiner

Milton Nelson, Jr.

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-15, 17, 19, 20, 23 is/are allowed.
- 6) ☒ Claim(s) 16, 18, 21, 22 and 24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 September 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information referred to in the information disclosure statement filed September 1, 2004 has been considered.

### ***Preliminary Amendment***

Applicant's preliminary amendment has been entered.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16, 18, 21, 22 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 16, it is unclear if Applicant intends to positively claim the stepping motor. Note the recitation "can be changed in the inclination-adjusting function by the electric drive (6) in a stepwise manner – in particular with a stepping motor". In claim 18, it cannot be determined if Applicant intends to positively claim electronic torque limitation "or" mechanical torque limitation. In claim 21, "the passenger compartment" lacks proper antecedent basis. In claim 21, it cannot be determined if Applicant intends to positively claim the passenger compartment.

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Note the recitation "can be actuated from the passenger compartment". In claim 21, the recitation "preferably" renders the claim indefinite because it is unclear whether the limitations following the recitation are part of the claimed invention. In line 3 of claim 21, the recitation "and/or" fails to positively define that which Applicant intends to claim. In claim 22, the recitation "or one or more" fails to positively define that which Applicant intends to claim. In claim 22, it cannot be determined if Applicant intends to positively claim the wireless remote control. Note the recitation "can be folded over by wireless remote control". In claim 24, the recitation "or at least" fails to positively define that which Applicant intends to claim.

#### ***Allowable Subject Matter***

Claims 13-15, 17, 19, 20 and 23 are allowed.

Claims 16, 18, 21, 22 and 24 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Motor operated adjustment of a vehicle seat assembly is shown by each of Moradell et al (5483853), Bray et al (5435624), Kunz et al (5269588), and Baloché et al (5717300). A control device for remotely adjusting

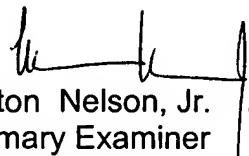
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a seating assembly is shown by Vang et al (6492786). Remotely controlled adjustment of a vehicle seat is shown by Saitoh (4809180). A electric motor for adjusting a seating assembly is shown by Daniels (20040195892).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is (571) 272-6861. The examiner can normally be reached on Monday-Wednesday, and alternate Fridays 5:30-3:00.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Milton Nelson, Jr.  
Primary Examiner  
Art Unit 3636

mn  
October 3, 2005